

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
01/23/02 Item

File Number
CP 01-12-108

Application Type
Conditional Use Permit

Council District
4

Planning Area
Alum Rock

Assessor's Parcel Number(s)
254-13-126 and -128

PROJECT DESCRIPTION

Completed by: Jenny Nusbaum

Location: northeasterly corner of Timothy Drive and Yard Court (1005 Timothy Drive)

Gross Acreage: 3.57 Net Acreage: 3.57 Net Density: n/a

Existing Zoning: HI-Heavy Industrial
and LI- Light Industrial Existing Use: Office and Warehouse

Proposed Zoning: No change Proposed Use: Curbside Recycling Facility

GENERAL PLAN

Completed by: Jenny Nusbaum

Land Use/Transportation Diagram Designation
Heavy Industrial

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: Jenny Nusbaum

North: Heavy Industrial

HI-Heavy Industrial

East: Heavy Industrial

HI-Heavy Industrial; LI-Light Industrial

South: Mix of Light and Heavy Industrial

HI-Heavy Industrial; LI-Light Industrial

West: Mix of Light and Heavy Industrial

HI-Heavy Industrial; LI-Light Industrial

ENVIRONMENTAL STATUS

Completed by: Jenny Nusbaum

☐ Environmental Impact Report found complete
☒ Negative Declaration circulated on December 24, 2001

☐ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: Jenny Nusbaum

Annexation Title: Orchard No. 33

Date: November 30, 1962

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions

Date:

Approved by: _____
☒ Action
☐ Recommendation

APPLICANT/OWNER/DEVELOPER

Ba Van Le, Huong Van Le, My-Ngoc Thi Le, & Hanh T. Nguyen
Attn: Ba Van Le
640 North 9th Street
San Jose, CA 95112

California Waste Solutions
Attn: David Duong
1820 10th Street
Oakland, CA 94607

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Jenny Nusbaum

Department of Public Works

See attached Final memorandum and Traffic memorandum.

Other Departments and Agencies

See attached memoranda from Fire Dept., Police Dept. and Environmental Services.

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The developer, California Waste Solutions, is requesting a Conditional Use Permit to allow construction of a curbside recycling processing and transfer facility on the subject site. The Zoning Ordinance requires a Special Use Permit for a recycling processing and transfer facility in the HI-Heavy Industrial and the LI-Light Industrial zoning districts. However, a CUP is required when the sound pressure level generated by any use or combination of uses on the subject site will exceed the decibel level at any property line as shown in Table 20-135 of the Zoning Ordinance.

Project Site

The subject site is 3.57 gross acres located at the northeasterly corner of Timothy Drive and Yard Court (1005 Timothy Drive). Two zoning designations exist on the property: the southerly parcel (APN 254-013-128) fronting on Timothy Drive is zoned LI-Light Industrial and the northerly parcel (APN 254-013-126) is zoned HI-Heavy Industrial.

Surrounding Land Uses

On its westerly side, the site is adjacent to industrial manufacturing and service businesses that front on Timothy Drive. These businesses include Macro-Metallics, Vision Printing, and Elcon Inc. at 1009 Timothy. Northwesternly of the subject site, at 1158 Berryessa Road, is the Norcal corporation yard and green waste transfer facility (currently under construction). Immediately adjoining the subject site to the north and northeast, at 11740 Berryessa Road, is a site owned by SRDC, Inc. (the former San Jose Self-Storage site) which has a pending Conditional Use Permit application for a concrete/asphalt crushing and recycling facility. Adjoining the subject site to the east, and fronting on Yard Court (1261 Yard Court), is Gonzalez Pallet Company. Muller Construction Supply is located southeasterly, across Yard Court (1230 Yard Court). Also across Yard Court on the southeasterly corner of Timothy Drive and Yard Court is Sanmina Corporation electronics manufacturing (1015 Timothy Drive). Across Timothy Drive at the southwesterly corner is Spectral Dynamics (1014 Timothy Drive).

Other businesses in the vicinity of the site consist of a mix of industrial services, manufacturing and construction uses on Timothy Drive including Phantom Manufacturing, MBA Office Supply, Rosendin Electric, Unilab, C.L. Hann Industries, Blossom Valley Landscaping, and Bruns Belmont Construction.

Site History and Previous Permits

The site is currently leased by several tenants and is being used as a warehouse for materials and equipment storage. Previously, the County of Santa Clara used the existing building for administrative offices.

The existing office building appears to have been constructed in the 1960's and used for research and development in the 1980's. In 1981, a warehouse addition of approximately 7,800 square feet was approved by Site Development Permit File No. H 81-05-128. Then, in 1984, Site Development Permit File No. H 84-7-226 was approved to allow tenant improvements and replacement of an existing loading dock near the southeast corner of the subject site. This southeasterly portion of the site is located in the LI-Light Industrial zoning district. Now, in order to meet the current minimum front setback of 60 feet required in the LI-Light Industrial zoning district, the subject project proposes demolition of this existing loading dock.

In October of 2001, Special Use Permit application SP 01-10-059 was submitted to allow the curbside recycling facility use with a maximum noise level not to exceed the Zoning Ordinance requirement of 70 decibels at property lines shared with other industrial uses. A noise analysis was then conducted for this project. This analysis concluded that sound walls up to 19 feet in height would be necessary to meet the Zoning Ordinance requirement for a Special Use Permit. Planning staff and the applicant subsequently agreed that the submittal of the subject Conditional Use Permit application to replace the Special Use Permit application would be desirable to allow the City of San Jose the flexibility of approving the recycling facility with sound walls lower than 19 feet in height.

Project Description

The proposed project includes re-use, remodeling, and expansion of the existing 45,000 square foot building in order to create a 51,300 square-foot materials recycling facility that will sort mixed residential curbside recyclables. Materials collected will include various types of paper, cardboard, plastic, glass, aluminum, and tin. It is anticipated that 92% of the materials brought on-site will be recyclable. The remaining materials are anticipated to be unmarketable materials (residual wastes), which will be baled and trucked to landfills. The facility will receive materials that have been separated for reuse prior to receipt, and the residual amount of solid waste in this material is anticipated to be less than 10% of the amount of separated for reuse material received by weight.

The facility's normal hours of operations are proposed to be Monday through Friday from 6:00 AM to 11:30 PM. If, however, the volume of materials increases at a sustained level over time, the applicant proposes additional overtime hours either at the beginning of the daytime shift or the ending of the swing shift to process the increased volume of materials. Additionally, the applicant proposes that deliveries may occur on Saturdays in proximity to major holidays such as Christmas, New Year's Day, and Thanksgiving.

Access to the site will be from Timothy Drive and Yard Court. Two driveways along the project frontage will provide vehicle access to the site. One full access driveway will serve the recycling collection trucks; another full access driveway will serve the load-out trucks and employees of the facility.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Heavy Industrial in that a recycling processing and transfer facility may be allowed with a Special Use Permit or a Conditional Use Permit in the LI-Light Industrial and the conforming HI-Heavy Industrial zoning districts.

ENVIRONMENTAL REVIEW

An Initial Study was prepared for this project and a Draft Mitigated Negative Declaration was circulated for public review by the Director of Planning on December 24, 2001. The following are the key issues that were addressed.

Air Quality

The recyclable materials may contain items that have potentially odorous contents; the majority of these contents would include containers that have not been thoroughly rinsed (e.g., milk containers containing sour milk). Also, residents may improperly dispose of unacceptable or unmarketable items that are not recyclable. A misting system, including the use of an odor suppressant or enzymatic neutralizers specifically designed to neutralize odors typical of this type of facility, shall be installed to manage dust and odors generated from the unloading and processing of the recyclable materials. The project will also control odors through maintaining a short residence (generally 24 hours and at most up to 48 hours) of the potentially-odorous materials at the facility. In addition, the processing of the materials will mainly occur within a covered and mostly-enclosed space. With the operational, building design, and odor-neutralizing measures included as part of the project, objectionable odors would not be significant and would not have a significant impact on any sensitive receptors or nearby industrial receptors.

Hazardous Materials

The proposed project could potentially receive hazardous wastes as a result of inappropriate curbside recycling. Normal substances for equipment maintenance and repair (oils, grease, etc.) will also be stored onsite. Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site shall be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau. With this mitigation, the impact will be less than significant.

Hydrology/Water Quality

To reduce the impact of post-construction nonpoint source runoff, the project includes the installation of inlet filters in all on-site storm drainage inlets. This measure is included as a proposed condition of the Conditional Use Permit.

Noise

Truck and automobile transportation noise and onsite equipment noise would exceed City General Plan standards along the northeast and southwest property boundaries. Project construction could also result in short-term noise impacts. The Conditional Use Permit shall require that the project implement the mitigation measures recommended in the noise analysis entitled, "Environmental Noise Assessment, Proposed California Waste Solutions (CWS) Recycling Processing Facility - San Jose," prepared by Charles M. Salter Associates, Inc., and dated November 14, 2001. Noise attenuation barriers along the project site shall include a 10-foot-high barrier along the northeasterly property boundary, an 8-foot-high barrier along the southwesterly property boundary, and 6-foot-high barriers along the remaining boundaries. With the inclusion of these measures the project will not exceed 70 dBA DNL, and will therefore be in conformance with the City of San Jose's General Plan Noise Guidelines; the project will also have a less than significant impact based on CEQA guidelines.

ANALYSIS

The main issue associated with the project is neighborhood compatibility. Specifically, potential neighborhood traffic and parking impacts resulting from the proposed operations are of concern to the immediate industrial neighbors. Neighbors in the larger vicinity of the site may be concerned about noise and potential odor related to the proposed operations. In terms of CEQA compliance, the above-stated items will have less than significant impacts with implementation of the recommended mitigation measures.

Project Setting/ Site Layout

Project Setting. The site is located in the HI-Heavy Industrial and LI-Light Industrial zoning districts. The HI-Heavy Industrial zoning district conforms to the site's General Plan Land Use/Transportation Diagram of Heavy Industrial. Recycling processing and transfer facilities are permitted in both the HI-Heavy Industrial and LI-Light Industrial zoning districts with the approval of either a Special Use Permit or a Conditional Use Permit. Parcels located adjacent and across the street from the subject site are located in the HI-Heavy Industrial and LI-Light Industrial zoning districts, and the uses on these parcels are currently industrial and industrial serving uses. The General Plan Land Use/Transportation Diagram for all adjoining parcels in Heavy Industrial.

Within a one-mile radius surrounding the subject site is a mix of industrial, commercial, residential, and transportation-related uses. Industrial uses predominate in this wider area. The closest residential area is located across US Highway 101 at least 1,000 feet southerly and westerly of the site. The next closest residential areas are surrounded by industrial uses and are located approximately one half a mile from the subject site.

Site Layout. In conformance with the *Industrial Design Guidelines*, the site design is organized with public-related functions located in the front area of the site. More intensive company operations, including recyclable material processing, are internalized. Sound walls and fences ranging from 6 feet to 10 feet in height along property boundaries will acoustically and visually screen the outdoor activities. The project proposes adaptive re-use and expansion of an existing concrete tilt-up building. This approach of "recycling" a building for a new use is in keeping with "sustainable city" policies espoused in the General Plan

Landscaping/Outdoor areas.

The frontage of the building facing Timothy Drive will be landscaped between the parking lot and the sidewalk adjoining the existing building. Areas between the front parking lot and the southeasterly portion of the property, and five-foot setbacks from side property lines will also be landscaped. Existing front setback landscaping will be enhanced with new trees, shrubs, and ground cover and the site frontage will be enlivened by an outdoor employee “break” area, proposed in the front portion of the site. To protect existing mature vegetation located on the property lines, sound walls installed on the property line at the northwest and northeast boundaries of the site will be installed at the edge of the existing pavement on the southwest property line. All areas used for outdoor activity will be paved to control dust and provide appropriate drainage.

Structures/Use areas.

On-site structures will consist of the existing concrete tilt-up building with a steel frame addition to the rear of the property. The building will be expanded on the northeast side and rear of the site, facing the pallet site and the proposed rock-crushing operation respectively. The expansion will include both the unloading and the load-out areas of the building. The unloading area will be covered and the processing area will be completely enclosed. An existing boiler room of approximately 2,500 feet will be removed and replaced with a 10,500 square foot unloading area. The total building will be approximately 51,300 square feet and will contain all of the unloading and processing equipment, as well as storage, bulk storage, load-out bays, maintenance facility, and administrative offices. Some baled materials are proposed to be stored outside.

The unloading area addition, to be constructed on the northeast corner of the site, will consist of a steel frame open-front structure to maximize the number of stalls for unloading the collection trucks. The addition will measure approximately 200 feet wide by 52 feet deep. Steel columns will be inset from the face of the structure approximately 15 feet to increase circulation and maneuvering room at the unloading area. The unloading area will provide spaces for eleven (11) collection trucks to unload at any one time.

A 1,400 square-foot load-out dock will be constructed on the northwest corner of the site, facing the proposed concrete crushing operation, and it will be depressed approximately three to four feet below the existing grade to allow a level load-out from the existing building elevation. The load-out dock will provide space for four (4) load-out trucks at any one time.

A fueling station with a storage tank capacity of approximately 500 gallons will be constructed to dispense diesel fuel for the two (2) on-site diesel-powered wheel loaders. The fueling station will be located on the eastern section of the site on the Yard Court side of the facility. It will consist of an aboveground storage tank and fuel pump covered by an overhead canopy. This fueling station will not be used to fuel any off-site vehicles such as collection trucks and shipping trucks.

A maintenance area is proposed on the subject site to provide service to on-site vehicles only and will not contain equipment, nor provide service, for collection or load-out vehicles. The maintenance area will be used for maintaining the fixed equipment (conveyors, chutes, balers, etc.) and rolling stock (wheel loaders, forklifts, etc.) at the facility. This equipment will include, but is not limited to, lubricants, tools, floor jacks, a workbench, and an air compressor. The room will be equipped with a roll-up door through which to drive forklifts carrying various parts into the room for repair. The room will be an open area without partitions to provide flexibility for maintenance or repair activities to occur in stages throughout the room. Various types of tools and replacement parts will be stored on shelves or racks encircling the edges of the room.

On-site Storage.

The applicant intends to fill and transport overseas shipping containers with baled recyclable materials from the facility to the Port of Oakland for consolidation and staging of shipping to various secondary markets. However, the contract between the City of San Jose Environmental Services Department and Norcal includes a requirement for the facility to store up to one week of materials. To comply with this requirement, the site includes a potential storage area for baled materials.

The potential storage area will cover an area of approximately 18,200 square feet of area, consisting of 10,500 square feet indoor and under the roof and 7,700 square feet outside (for non-fiber storage). This is equal to approximately 4,275 tons of baled materials, which equates to two weeks (11 operating days) of material storage based on the average permit flow rate of 450 tons per day. Consistent scheduled trucking of outgoing shipments will reduce the stock of on-site materials and maintain a sufficient storage area for materials in the event that on-site storage is necessary.

The facility will have a bulk storage area that will be designated for non-balable materials including glass, some bulky residual wastes, and scrap metal. This material consists primarily of glass, which will be contained in bunkers. Small quantities of residual waste and scrap metal will be stored in roll-off boxes or bins.

Bunkers will be provided to store various types of bulk glass materials. These bunkers are open on one side and each one provides 50 cubic yards of storage capacity, for a total of approximately 370 tons of glass or fines storage. A 20 cubic yard bin will be located adjacent to the bunkers for the storage of scrap metal. Textiles will be stored in a 20 cubic yard bin in the presort area. Based on a peak incoming volume of approximately 68 tons per day of non-balable material, the bulk storage area provides ample storage capacity (approximately six days under peak conditions and seven days under average conditions) to retain materials for consolidation prior to delivery to secondary markets.

Parking and Site Access

The Zoning Ordinance requires a recycling facility to provide one parking space per employee of the largest shift, and one parking space per facility vehicle. The operation will employ two operating shifts of 22 facility processing employees each and one administrative shift of eight administrative staff, for a total peak of 34 employees at the site at any given time.

A total of 55 parking spaces are provided along the frontage of the property and near the administration portion of the building. This number is one more than the entire staff and 21 more than the actual quantity of peak-time employees that will be working on-site and includes additional patron parking. Therefore, the parking onsite exceeds the minimum requirement by 21 spaces. Staff believes that the extra parking provided beyond the minimum requirement should address the neighbors' concerns.

All incoming collection truck and load-out truck access to the site will be provided off of the existing driveway on Yard Court. As recommended in the traffic analysis, this driveway will be widened to 36 feet to provide improved truck access to Yard Court. The widened driveway also aligns more closely with the 40-foot outbound scale. Auto access for employees and guests will be provided by the existing driveway located on Timothy Drive. This driveway off of Timothy Drive will be widened to 24 feet. Which will allow for outbound 50-foot tractor-trailer trucks to make a right or left turn out of the driveway onto Timothy Drive, without encroaching upon the curbside parking spaces on Timothy across from the driveway.

Traffic and On-Site Circulation

At the community meeting for this project held by the applicant in November 2001, a neighboring business representative stated that the intersection of Mabury Road and Timothy Drive was already congested with long queues and delays and that this project would worsen the situation. A few neighbors also mentioned that they did not want vehicles blocking their own site access, and were concerned that available on-street parking would be eliminated with the implementation of the project. These neighbors noted that traffic in their vicinity, in general, was already excessive and that the City should work on improving traffic conditions.

The proposed development is projected to add 26 a.m. peak hour trips and 34 p.m. peak hour trips. According to the Department of Public Works, this project is in conformance with the City of San Jose's Transportation Level of Service Policy (Council Policy 5-3). To address regional traffic mitigation improvements at the intersection of Commercial Street and Old Oakland Road, the City of San Jose's Department of Public Works has required a contribution of \$30,000. In addition, in response to neighbors' comments, the Department of Public Works recommends that the permit include a condition that requires that Large "Load-Out" truck trips will be restricted during the a.m. peak hour of 7-8 a.m. and the entire p.m. peak period (4-6 p.m.)

The proposed site will initially receive 180 recycling collection trucks per day on average and as many as 212 per day on a peak day. In addition to recycling collection trucks, the facility will receive load-out trucks, employees' vehicles, and miscellaneous delivery trucks for a total of 267 vehicles on an average day and a total of 304 vehicles on a peak day.

Collection Trucks. The materials will be brought to the site in single-pass refuse and recycling vehicles (collection trucks) carrying materials from residential areas of San Jose. Collection trucks will enter the site through the Yard Court entrance and proceed to the 70' entrance scale located on the northeast side of the site, approximately mid-length of the site. The incoming trucks will be weighed at the 70' entrance scale, which is one of three scales located at the Yard Court entrance of the facility. The collection trucks will proceed beyond the scale and maneuver into unloading position at the unloading area located at the northeast edge of the building.

The unloaded materials will be consolidated into a designated area toward the back of the unloading area, near the in-feed conveyors to the processing equipment. The trucks will then exit the facility and be weighed at the exit scale adjacent to the unloading area, located at the northeast side of the facility. All collection trucks will exit onto Yard Court and then turn left on Timothy Drive.

A weigh master stationed in the scale booth adjacent to the exit scale will observe the truck arrival rate. If more than the sum of the trucks in queue and those stationed at the unloading area (seven plus 11, equaling 18) arrive, the scale master will direct the collection trucks to be weighed in and proceed beyond the unloading area to the collection truck queue area on the northeast and southeast perimeter of the site. These areas will provide spaces for an additional twenty-two trucks. This will leave room for an additional seven trucks to be queued behind the entrance scale.

From an operational standpoint, the facility is capable of handling approximately 41 collection trucks at the site at any one time including: 7 trucks queuing behind the 70' entrance scale; 1 on the 70' entrance scale; 11 trucks unloading at the unloading area; and 22 trucks queuing in parking spaces at the rear of the property. Collection vehicle unloading time typically requires between three to four minutes. Using a 200% delay factor (ten minute unloading time) the site could accommodate receiving the entire peak volume of collection vehicles (106) and in a one hour period without backing any vehicles onto Yard Court.

This capacity equates to nearly the entire number of trucks Norcal intends to use at the start-up of the collection contract in July 2002 (or 62 trucks) and a nearly 400% factor of safety for truck arrival and queuing from the anticipated peak of 55 trucks per hour. Given the highly unlikely probability of this number of collection trucks at the site at any one time occurring, the site will easily accommodate the queuing associated with the peak tonnage of 530 tons per day without causing any trucks to queue into the public street. In response to neighbors' comments and in order to accommodate local traffic issues, collection trucks will exit onto Yard Court and turn left onto Timothy Drive.

Load-out Trucks. Load-out trucks will also enter the site from Yard Court and proceed to the 70' entrance scale. After being weighed, the load-out trucks will proceed beyond the rear of the building in a counter clockwise direction to the load-out bays where they will maneuver to the load-out dock. After being filled with baled recycled materials, the load-out truck will proceed left from the load-out dock to the 70' exit truck scale located on the southwest side of the site near the Timothy Drive driveway where the truck will be weighed. A computerized tracking system will calculate the weight differences between the incoming scale weight and the exiting scale weight. The load-out truck will proceed from the exit scale onto Timothy Drive and south on Timothy Drive to Mabury.

The loaded containers will be trucked to the Port of Oakland for load consolidation and storage prior to shipment to appropriate markets. At the peak throughput of 530 tons per day, approximately 30 loaded container trucks will take the processed materials to secondary markets or other destinations.

In the event of any stoppage due to equipment breakdown, there is ample storage at the facility to store over an entire day of material unloaded during the peak day. Also, the facility will be equipped with redundant processing and baling equipment in order to continue to receive and process incoming materials. If there is any other unforeseen backup of materials, the incoming materials can be baled unprocessed and stored onsite for later processing or taken to another facility where they can be processed at a later time. If baling isn't possible, the materials can be loaded into walking-floor trailers for redirection to another CWS single stream sorting facility.

Traffic on Timothy Drive. A specific concern of some neighbors is that traffic in the afternoon before 4:00 causes queuing problems on Timothy Drive and exiting problems at nearby driveways. Hexagon, the project traffic consultant, subsequently conducted field observations at the intersection of Mabury Road and Timothy Drive on two days from 3:30 to 4:45 PM. Hexagon's observations showed a very light traffic volume with no queuing problem. The consultant observed that the longest queue on Timothy Drive was three vehicles, and it dissipated within 10 seconds. Occasionally a vehicle making a left-turn had to stop for a short time to wait for a gap in oncoming traffic. However, the stopped vehicle did not interfere with the traffic operations of the through movement on Mabury Road. Field observations also showed that the operating conditions of this intersection do not have a negative effect on driveway operations at any of the nearby driveways and the addition of project traffic during the afternoon period would not have a negative effect on traffic operations at this intersection. Traffic is very light at the Mabury Road/Timothy Drive intersection and there are sufficient gaps in traffic on Mabury Road to allow project traffic to easily complete the turning movements to and from Timothy Drive.

Noise

General Plan Policies. The General Plan states that for industrial uses adjacent to other industrial uses, a DNL value of 70 decibels for community noise is considered compatible.

Zoning Ordinance Requirements. The Zoning Ordinance requires that maximum noise levels at the property line for industrial uses adjacent to a property used or zoned for industrial or use other than commercial or residential purposes not exceed 70 decibels except upon issuance and in compliance with a Conditional Use Permit.

Project Impacts. Truck and automobile transportation noise and onsite equipment noise would exceed City standards along the northeast and southwest property boundaries. Project construction could also result in short-term noise impacts.

Recommended Mitigation for Project Impacts. As previously mentioned, the Conditional Use Permit shall require noise attenuation barriers along the project site that include a 10-foot-high barrier along the northeasterly property boundary, an 8-foot-high barrier along the southwesterly property boundary, and a 6-foot-high barriers along the remaining boundaries. With the inclusion of these measures the project will not exceed 70 dBA DNL, and will therefore be in conformance with the City of San Jose's General Plan Noise Guidelines.

If the project were to mitigate impacts so that *maximum* noise levels at the property line did not exceed 70 decibels, the project would be required to include sound walls up to 19 feet in height at the property line. Planning staff believes that sound walls of this height at the property line would create aesthetic impacts that far outweigh the incremental benefit of this degree of mitigation, particularly in light of the fact that the surrounding properties are designated for heavy industrial uses and that the nearest residential area is at least 1,000 feet away from the subject site.

Odor

As previously mentioned, the main method in which the project would control odors is through maintaining a short residence (generally 24 hours and at most up to 48 hours) of the potentially odorous materials at the facility. In addition, the processing of the materials will mainly occur within a covered and mostly enclosed space. To regulate odors further, Planning staff recommends that a condition be included in the permit that allows the Director of Planning to order an immediate halt to the recycling processing and transfer operations, or a reduction in the total tonnage, if the Director receives a confirmed complaint that the recycling processing and transfer operations have produced substantial off-site odors. The Director of Planning could then issue a Notice of Noncompliance and an Order to Show Cause why the Conditional Use Permit shall not be revoked, suspended, or modified if the noncompliance is not corrected within the specified time. This condition would encourage the applicant to ensure that all odor mitigation measures are implemented. Staff believes that with this condition in the permit, the City can respond to neighbors' odor complaints in a quick and effective manner.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the subject site, and staff has been available to discuss the proposed project with members of the public.

A community meeting for the project was held at the subject site the evening of Tuesday November 27, 2001, and ten neighbors attended. The applicant distributed an announcement of the community meeting to the owners and tenants of all properties located within 1,000 feet of the subject site and the Planning Department posted the announcement on the departmental web site. The community meeting was coordinated with Council District 4 staff and they notified interested parties. The relevant issues discussed at the community meeting were project-generated traffic, on-site and off-site vehicle maneuvering, parking and noise from proposed operations.

Planning staff believes that the concerns of these residents have been adequately analyzed in the Initial Study and documented previously in this staff report. As noted, Planning staff has concluded that there is no significant unavoidable impact resulting from the proposed project. Moreover, the design of the project includes measures that allow the Planning Commission to make the findings for granting a Conditional Use Permit on the subject site for the proposed use.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Heavy Industrial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the HI-Heavy Industrial and LI-Light Industrial zoning districts.
3. A Mitigated Negative Declaration has been adopted for this project which indicates that certain mitigation measures will be incorporated into the project to prevent the occurrence of any significant adverse effect on the environment.
 - a. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
4. This Permit includes the partial demolition of an existing building totaling approximately 45,000 square feet and the demolition of a loading dock totaling approximately 900 square feet located near the southeast corner of the subject site in the LI-Light Industrial zoning district.
5. The Permit proposes construction of a curbside recycling processing and transfer facility on the subject site.
6. In the HI-Heavy Industrial and LI-Light Industrial zoning districts, a recycling processing and transfer facility requires a Special Use Permit or a Conditional Use Permit.
7. A Conditional Use Permit is required for a recycling processing and transfer facility in the HI-Heavy Industrial and the LI-Light Industrial zoning districts when the sound pressure level generated by any use or combination of uses on the subject site will exceed the decibel level at any property line as shown in Table 20-135 of the Zoning Ordinance.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project will be consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The project is in conformance with the requirements of the Industrial Design Guidelines.
5. The Planning Commission has considered all of the following criteria in evaluating the proposed demolition.

- a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
- b. The failure to approve the permit would jeopardize public health, safety or welfare.
- c. The approval of the permit would not negatively impact the supply of existing housing stock in the City of San José.
- d. Both inventoried and non-inventoried buildings, sites and districts of historical significance should not be negatively impacted.
- e. Rehabilitation or reuse of the existing building would not be feasible.
- f. The approval of the demolition of the building should facilitate a project which is compatible with the surrounding neighborhood.
- g. The demolition of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

4. The benefits of permitting the demolition, removal or relocation of the subject building and billboard outweigh the impacts of the demolition, removal or relocation.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and a Certificate of Permit has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be *signed, notarized, and returned* to the Department of Planning, Building and Code Enforcement within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the acceptance form.
2. **Site Development Permit.** This permit fulfills the requirement for a Site Development Permit.
3. **Industrial Waste.** If industrial waste, as defined by Section 15.12 of the San José Municipal Code, is to be discharged into the sanitary sewer system, a clearance shall be obtained from the Water Pollution Control Plant, Industrial Waste Section.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water

Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Recycling Center, 1005 Timothy Drive, San Jose, CA," dated November 16, 2001, last revised on December 6, 2001, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
3. **Previous Permits.** This Permit replaces Permit File No. H 84-7-226.
4. **Nuisance.** This use shall be operated in a manner, which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
5. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
6. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
7. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement and Building prior to approval of the final inspection of the project.
8. **Lighting.** On-site lighting shall use Low-Pressure Sodium fixtures and be designed, controlled and maintained so that no light source is visible from outside of the property. New electroliers shall not exceed 20 feet above grade.
9. **Refuse.** All trash areas shall be effectively screened from view, covered and maintained in an orderly state. No outdoor storage is allowed/permitted unless designated on approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
10. **Roof Equipment.** All roof equipment shall be screened from view.
11. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
12. **Outside Storage.** No outside storage is permitted except in areas designated on the approved plan set. No outside storage shall be visible from public streets.

13. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
14. **Colors and Materials.** All building colors and materials are to be specified on the approved plan set.
15. **Street Trees.** Street trees as shown on approved plans shall be planted on the street frontage to the satisfaction of the Director of the Department of Streets and Parks. A permit for this is required from the Department of Streets and Parks, (408) 277-4373.
16. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
17. **Tree Mitigation.** Each tree to be removed shall be mitigated at the following ratios:
 - a. Each tree removed less than 12 inches in diameter shall be replaced by one 15-gallon tree.
 - b. Each tree removed from 12 inches to 18 inches in diameter shall be replaced by two 24-inch-box trees.
 - c. Trees 18 inches in diameter or larger shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree removed 18 inches in diameter or larger shall be replaced by four 24-inch-box trees.
18. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation to be retained in this project. Maintenance shall include pruning and watering as necessary and protection from construction damage. All trees to be preserved shall be permanently identified by metal numbered tags prior to the removal of any tree on the site. All trees to be saved shall be protected by fencing of chain link, hog wire, or other fencing approved by the Director of Planning prior to issuance of the Grading Permit or removal of any tree. The fence shall occur at the dripline in all cases and shall remain during construction. Tree masses to be saved may be protected with a fence surrounding the dripline of the entire mass. All sensitive plant and wildlife habitat areas to be preserved and protected shall be posted prior to issuance of Grading Permit with signs stating that no disturbance, including grading, storage of equipment, vehicles or material, or other disruptions, is allowed. Fencing may be required for areas subject to direct impact, such as trees to be saved or habitat within areas being developed. Fencing and signage shall be maintained by the applicant to prevent disturbances during the length of the construction that might disrupt the habitat or trees.
19. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-00466) to the satisfaction of the Director of Public Works:

- a. *Storm Drainage, Sewer Fees.* In accordance with City Ordinance, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable by the applicant.
- b. *Grading Permit.* A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- c. *Sanitary Sewer Plan.* Applicant shall submit a sanitary sewer plan if construction of new laterals is proposed.
- d. *Grading/Drainage Plan.* Applicant shall submit a more detailed conceptive grading/drainage plan at the improvement stage.
- e. *Transportation.*
 - 1) Applicant shall contribute \$30,000 towards regional traffic mitigation improvements at the intersections of Commercial Street and Old Oakland Road.
 - 2) Large "Load-Out" truck trips shall be restricted during the a.m. peak hour of 7-8 a.m. and the entire p.m. peak period (4-6 p.m.).
- f. *Electroliers.*
 - 1) Applicant shall, at no cost to the City, install electrolier(s) on Timothy Drive to the satisfaction of the Director of Public Works.
 - 2) Applicant shall relocate electroliers along Timothy Drive or Yard Court to the satisfaction of the Director of Public Works.
 - 3) Applicant shall paint and renumber existing electroliers along all project frontages.
 - 4) Applicant shall replace existing HPS luminaires in electroliers along project frontage with LPS luminaires.
- g. *Street Trees.*
 - 1) Applicant shall install street trees within the public right-of-way along the entire street frontage per City standards.
 - 2) The location of the street trees shall be determined at the street improvement stage. Street trees shown on the approved plans are conceptual only.
 - 3) Contact the City Arborist at 277-2756 for the designated street tree.

h. *Street Improvements.*

- 1) Applicant shall construct curb, gutter, and sidewalk along project frontage.
- 2) Applicant shall repair, overlay, or reconstruct asphalt pavement to the satisfaction of the Director of Public Works. The existing pavement shall be evaluated with the street improvement plans and any necessary pavement restoration shall be included as part of the final street improvement plans.
- 3) Construction of driveway improvements to be to the satisfaction of the Director of Public Works.

i. *Storm Water Management Plan.* Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:

- (1) The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of storm water pollutants including sediments associated with construction activities.
- (2) The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).

Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control Plan may include Best Management Practices (BMPs) as specified in ABAG's *Manual for Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities.

Prior to the issuance of a grading permit, the applicant shall submit copies of the SWPPP, NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works, Room 308, 801 North First Street, San José, California 95110-1795. To obtain an NOI application and further information about the Erosion Control Plan and the NPDES permit requirements, please call the Department of Public Works at (408) 277-5161 or the SWRCB at (916) 657-1146.

- j. *Storm Water Clarifier.* The onsite storm water collection system shall include a storm water clarifier to remove sediments and oils should they be present in the storm water.
- k. *Landscape Irrigation Equipment.* Pursuant to San José Municipal Code, Section 15.10.478, landscape irrigation equipment shall be installed to the satisfaction of the Director of Public Works.

1. *Reclaimed Water Irrigation Systems.* Pursuant to San José Municipal Code, Section 15.10.480, irrigation systems for all landscaped areas in excess of 10,000 square feet, unless specifically exempted by the Director of Planning, shall be designed and installed to allow the current and future use of reclaimed water to the satisfaction of the Director of Public Works.
- m. *Inlet Filters.* The project developer shall install inlet filters in all on-site storm drainage inlets. These filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request. The project developer shall implement a maintenance program for these inlet filters that includes but is not limited to the following measures:
 - 1) Installation. The inlet filters shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owner.
 - 2) Maintenance Record. The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the inlet filters.
 - 3) Regular Sweeping. Paved surfaces subject to runoff shall be swept regularly during dry periods to remove dirt, silt and other loose debris.
 - 4) Regular Inspections. The inlet filters shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
 - 5) Replacement of Absorbent Material. The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
 - 6) Disposal of Used Absorbent Material. Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.
 - 7) Replenishment of Absorbent Materials Supply. The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent material plus a reserve to handle emergencies.
- n. *Storm Water Stenciling.* All drain inlets shall be labeled "No Dumping--Flows to Bay." Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
- o. *Minor Improvement Permit.* The applicant shall be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance shall require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes plans, insurance, bonds/deposit certificate, and engineering and inspection fees.

20. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, CP 01-12-108, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Americans With Disabilities Act and Title 24.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA) and Title 24.
 - d. *Mechanical Equipment.* No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise level from such equipment will not exceed 55 DNL at the residential property line.
 - e. *Demolition Permit.* Obtainment of a Demolition Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions. No demolition of the structures may be implemented unless and until the Building Division issues a Demolition Permit pursuant to Section 301 of the Uniform Building Code, as adopted pursuant to the provisions of Chapter 17.04 of Title 17 of the San José Municipal Code.
 - f. *Geology and Soils.* Prior to issuance of a building permit, the project shall be designed and constructed to ensure structural stability as required by the earthquake design regulations of the Uniform Building Code.
21. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
22. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
23. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.

24. **Fire Flow.** Required fire flow for the site is 4,500 gpm, or as otherwise approved in writing by the Fire Chief.
25. **Fire Extinguisher System.** Building(s) shall be provided with an automatic fire extinguisher system. Systems serving more than 100 heads shall be supervised by a remote alarm system to the satisfaction of the Fire Chief.
26. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
27. **Gates.** All electrical gates shall have a manual means of opening subject to the approval of the Fire Department.
28. **Fences.** No chainlink fencing is permitted within the front setback and no barbed wire is permitted anywhere on the subject site.
29. **Directory.** A lighted directory showing addresses and locations of all buildings on the site shall be provided at the main entrance of the site.
30. **Street Number Visibility.** A street number shall be displayed on the primary building on each parcel. Street numbers of the buildings shall be easily visible from the street at all times, day and night.
31. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
32. **Street Cleaning and Dust Control.** During all phases of construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. Specifically, the applicant shall:
 - a. Water all active construction areas on exposed soils at least twice daily.
 - b. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - c. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - d. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - e. Sweep daily with water sweepers all paved access road, parking areas and staging areas at construction sites.

- f. Sweep streets daily at least twice during construction with water sweepers and within one hour of visible soil material carried onto adjacent public streets.
 - g. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
 - h. Enclose, cover, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - i. Limit traffic speeds on unpaved roads to 15 mph.
 - j. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - k. Replant vegetation in disturbed areas as quickly as possible.
33. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
34. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
35. **Hours of Operation.** Operations within the Facility for materials handling and loading may occur 24 hours per day, seven days per week. During all periods of the year, vehicle maintenance operations shall be limited to operation between the hours of 6:00 AM to 11:00 PM, Monday through Saturday, trucks may not start up on-site before 5:00 AM, and indoor vehicle maintenance may occur between 5:00 AM and 11:00 PM.
36. **Noise Mitigation.** The project approved by this permit shall include implementation of the noise mitigation measures identified in the noise report titled "Environmental Noise Assessment, Proposed California Waste Solutions (CWS) Recycling Processing Facility - San Jose," prepared by Charles M. Salter Associates, Inc., and dated November 14, 2001. Noise attenuation barriers along the project site shall include a 10-foot-high barrier along the northeasterly property boundary, an 8-foot-high barrier along the southwesterly property boundary, and 6-foot-high barriers along the remaining boundaries.
37. **Scope of Curbside Recyclable Materials Processing Operations.** This permit shall limit curbside recyclable materials operations as follows:
- a. *Recyclable Materials.* The facility may accept for processing curbside recyclable materials, as further limited by this permit. On-site processing is limited to sorting and transfer operations.
 - b. *Curbside Recyclable Materials Maximum Tonnage.* The facility shall accept a maximum of 110,000 tons per year, with a maximum of 2,700 tons of curbside recyclable materials per week, and a maximum of 530 tons on any single day.

- c. *Curbside Recyclable Materials Storage Duration.* All curbside recyclable materials/residual wastes received during the day shall be removed from the site within 48 hours of arrival.
 - d. *Curbside Recyclable Materials Unloading and Transfer within Designated Areas on Approved Plan Set.* All unloading and transfer operations shall be conducted within the areas designated on the approved plan set.
38. **Recycling Operations Dust Control.** The applicant shall install and maintain a hand held hose watering system in the recyclable materials sorting and transfer areas. Water shall be applied during sorting operations to insure that there is no airborne dust leaving the site. Wet sweeping of all paved areas on site and adjacent public streets shall be done to keep areas free of dust and debris resulting from this operation. Trucks shall be maintained to minimize PM-10 emissions from combustion engines.
39. **Odor Control.** To mitigate against possible odors, the applicant shall provide the following:
- a. Install, operate and maintain a subtractive odor control system.
 - b. Use the odor control system on loads of waste that are wet, known to be odorous, or otherwise capable of causing significant odor emissions.
 - c. Clean the tipping floor and trailer pit area daily of potentially malodorous materials.
 - d. Remove potentially odorous materials from the transfer facility within 48 hours.
 - e. Install, maintain, and employ odor control facilities as needed, and employ daily misting, to hold down dust and odors in the work areas.
40. **Residual Waste Transport.** Residual waste shall not be transported in vehicles that do not meet the requirements of San Jose Municipal Code Section 9.10.550. End dumps, flat beds, and roll-offs may need special modifications to meet the requirements of the code.
41. **Vehicle and Equipment Maintenance.** All vehicle and equipment repair and maintenance shall be confined within the building. Truck inspections and minor adjustments to vehicles such as bulb changes and lens changes may occur outside the building.
42. **Floor Drains.** No floor drains shall be permitted inside areas used for vehicle repair and maintenance.
43. **Other Permits and Compliance with Other Agencies Requirements.** The applicant shall obtain all necessary permits from and comply with all applicable requirements of the Bay Area Air Quality Management District, the Local Enforcement Agency of the California Integrated Waste Management Board and the San Francisco Bay Regional Water Quality Control Board, and all other applicable local, State, and Federal agencies.

44. **Noncompliance and Order to Show Cause.** The Director of Planning may order an immediate halt to the recycling processing and transfer operations, or a reduction in the total tonnage, if the Director receives a confirmed complaint that the recycling processing and transfer operations have produced substantial off-site odors, or at any time the facility receives more than one confirmed odor complaint per year, for separate events occurring on separate days, averaged over a three year period, as determined by the Director of Planning, or the Director determines that the facility is not in substantial conformance with the requirements of the Conditional Use Permit or Zoning Ordinance. Within seven (7) days of ordering such a reduction, the Director of Planning shall issue a Notice of Noncompliance in conformance with Title 20 of the Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the Conditional Use Permit shall not be revoked, suspended, or modified if the noncompliance is not corrected within the specified time. The reduction in the allowed amount of mixed residential curbside recyclables may not extend beyond the time frame specified in the Notice of Noncompliance for correction unless the Director issues an Order to Show Cause. If the Director issues an Order to Show Cause, the reduction can continue until the Planning Commission holds a public hearing on the Order to Show Cause and makes a decision as to whether or not the permit should be modified, suspended or revoked.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire in two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
3. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five (5) years from the date of this Permit.

4. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.
5. **Compliance Review:** A Compliance Review is required one year from the date of approval of this Permit.

c: Building Division (2)
 Engineering Services
 Ba Van Le, 640 North 9th Street, San Jose, CA 95112
 David Duong, California Waste Solutions, 1820 10th Street, Oakland, CA 94607
 Tim Raibley, Brown Vence & Associates, 198 Cirby Way, Suite 170, Roseville, CA 95678
 Carolyn Gonot, VTA Congestion Mgmt. Program (required if TIA was done)
 3331 North First St., Bldg. B, San Jose, CA 95134-1906
 207-10/JN:

Attachments: Departmental Memos, Public Notice, Hearing Notice, Mitigated Negative Declaration